



everingham<sup>inc.</sup>

**DATE** : 4 October 2011

**OUR REF.** : N Everingham/CAMA1-10180

**TO** : Mr T Kamionsky  
64 Club Street  
cnr Club Street and Council Street  
LINKSFIELD

**AND TO** : Dynam-ique SA Consultants and Actuaries (Pty) Limited  
c/o Mr T Kamionsky  
64 Club Street  
cnr Club Street and Council Street  
LINKSFIELD

Dear Mr Kamionsky

**CLAIMS BY : T KAMIONSKY and DYNAM-IQUE SA CONSULTANTS AND ACTUARIES (PTY) LIMITED**

1. We refer to your letter to us dated 19 September 2011 which was delivered to the offices of our Johannesburg correspondents, Messrs. Charmain Gibbens Attorneys, on 20 September 2011. We reply thereto as set out below.
2. We believe that our letter of 9 September 2011 makes our clients' position clear with regard to the claims made by yourself and Dynam-ique SA Consultants and Actuaries (Pty) Ltd (*"Dynam-ique Consultants"*) for

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Unit 69, Roeland Square, Roeland Street, Cape Town - P O Box 2030, Cape Town, 8000 - Docex 269, Cape Town

Directors: Nigel A. Everingham and Adrian J. Kennedy

indemnity under the policies of insurance. Consequently, and whilst we will deal with certain aspects raised in your letter of 19 September 2011, we do not intend to traverse each and every issue which you have raised. However, our failure to do so should not be construed as a waiver of any of our clients' rights, or as an admission of any of the averments contained in your letter under reply, and our clients adhere fully to the contents of our letter dated 9 September 2011 and reaffirm the grounds of repudiation set out therein.

3. With regard to your enquiry as to whether the references to "you" in our letter of 9 September 2011 are to be construed as a reference to you personally, or to Dynam-ique Consultants, or to both, we advise that the letter was addressed to both yourself and to Dynam-ique Consultants, and that references to "you" should be construed as a reference to both recipients of the letter, unless the context clearly indicates to the contrary.
4. There is no obligation on our clients to submit any proof to you of the grounds of declinature set out in our letter dated 9 September 2011, or to submit any evidence to you supporting our contentions, merely on account of the fact that you dispute certain of the contents of our letter; nor can there be any basis in law for the contention, in paragraph 9.2 of your letter under reply, that any of the paragraphs of our letter "*will be deemed null and void*".
5. As you have acknowledged that our clients have valid grounds for repudiating the claims for indemnification both by yourself and Dynam-ique Consultants (notwithstanding that you dispute certain of the grounds of rejection relied upon), no purpose would be served in adjudicating, as between yourselves and our clients, the disputed grounds

of repudiation. Neither you nor Dynam-ique Consultants have enforceable claims against our clients, and any such adjudication as proposed by you would be an academic exercise in which no substantive relief could be claimed.

6. In any event, and to the extent that you may persist with your intention to seek a judicial determination in respect of those grounds of repudiation which you do not accept, we advise that our clients decline to submit such dispute to arbitration.
  
7. All rights of our clients remain expressly reserved.

Yours faithfully



**N A Everingham**  
**EVERINGHAMS ATTORNEYS**